

FINAL
Maryland Register
Issue Date: July 26, 2024
Volume 51 • Issue 15

Title 10
MARYLAND DEPARTMENT OF HEALTH
Subtitle 65 BOARD OF MASSAGE THERAPY EXAMINERS

Notice of Final Action

[23-273-F]

On July 16, 2024, the Secretary of Health adopted:

- (1) Amendments to Regulations **.06** and **.09** under **COMAR 10.65.02 Rules of Procedure for Board Hearings**;
- (2) Amendments to Regulations **.02—09** under **COMAR 10.65.03 Code of Ethics**;
- (3) Amendments to Regulations **.01—06** under **COMAR 10.65.04 Advertising**;
- (4) Amendments to Regulations **.01—04** under **COMAR 10.65.05 Continuing Education Requirements**;
- (5) Amendments to Regulations **.01** and **.02** under **COMAR 10.65.06 Record Keeping**;
- (6) Amendments to Regulations **.01—03**, the repeal of existing Regulation **.04**, and amendments to and recodification of existing Regulations **.05** and **.06** to be Regulations **.04** and **.05**, respectively, under **COMAR 10.65.09 Sanctioning Guidelines**.

This action, which was proposed for adoption in 51:2 Md. R. 86—94 (January 26, 2024), has been adopted as proposed.

Effective Date: August 5, 2024.

LAURA HERRERA SCOTT
Secretary of Health

PROPOSAL
Maryland Register
Issue Date: January 26, 2024
Volume 51 • Issue 2 • Pages 86-94

Title 10
MARYLAND DEPARTMENT OF HEALTH
Subtitle 65 BOARD OF MASSAGE THERAPY EXAMINERS

Notice of Proposed Action

[23-273-P]

The Secretary of Health proposes to:

- (1) Amend Regulations **.06** and **.09** under **COMAR 10.65.02 Rules of Procedure for Board Hearings**;
- (2) Amend Regulations **.02—09** under **COMAR 10.65.03 Code of Ethics**;
- (3) Amend Regulations **.01—06** under **COMAR 10.65.04 Advertising**;
- (4) Amend Regulations **.01—04** under **COMAR 10.65.05 Continuing Education Requirements**;
- (5) Amend Regulations **.01** and **.02** under **COMAR 10.65.06 Record Keeping**;
- (6) Amend Regulations **.01—03**, repeal existing Regulation **.04**, and amend and recodify existing Regulations **.05** and **.06** to be Regulations **.04** and **.05**, respectively, under **COMAR 10.65.09 Sanctioning Guidelines**.

This action was considered by the Board of Massage Therapy Examiners at a public meeting held on July 26, 2023, notice of which was given by publication on the Board's website at <https://health.maryland.gov/massage/Pages/home.aspx> pursuant to General Provisions Article, §3–302(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to:

- (1) Require a licensee or registrant found in violation of statute to reimburse the Board for certain court costs;
- (2) Replace obsolete terms;
- (3) Amend continuing education hours and add implicit bias training;
- (4) Update the list of pre-approved providers for courses and programs;
- (5) Allow notifications to licensees and registrants to be sent by electronic means;
- (6) Remove references of a sanctions worksheet;
- (7) Update disciplinary guidelines; and
- (8) Make clarifying changes.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Jourdan Green, Director, Office of Regulation and Policy Coordination, Maryland Department of Health, 201 West Preston Street, Room 512, Baltimore, MD 21201, or call 410-767-6499 (TTY 800-735-2258), or email to mdh.regs@maryland.gov. Comments will be accepted through February 26, 2024. A public hearing has not been scheduled.

10.65.02 Rules of Procedure for Board Hearings

Authority: Health Occupations Article, §§6-206, 6-309, and 6-310; State Government Article, §10-206; Annotated Code of Maryland

.06 Records and Transcripts.

A. (text unchanged)

[B. A stenographic record of the proceedings shall be made at the expense of the Board. This record need not be transcribed, however, unless requested by a party, or by the Board. The cost of any typewritten transcripts of any proceeding, or part of it, shall be paid by the party requesting the transcript.]

B. If after a hearing, a licensee is found to have violated any of the provisions of Health Occupations Article, §6-308, Annotated Code of Maryland, the Board shall be entitled to reimbursement of costs by the licensee including any or all of the following items:

- (1) Services rendered by court reporters;*
- (2) Transcription of the hearing record by court reporters;*
- (3) Expenses related to witnesses appearing for the State;*
- (4) Obtaining or reproducing documents, exhibits, or other evidentiary items;*
- (5) Hearing-related per diems and expenses for Board members; and*
- (6) Other expenses directly related to the investigation and prosecution of the disciplinary action against the licensee.*

.09 Appeal.

Any person whose license *or* registration has been revoked or suspended by the Board, or any person placed on probation or reprimand under the regulations in this chapter, may appeal the Board's decision as provided by law.

10.65.03 Code of Ethics

Authority: Health Occupations Article, §§1-212, 6-102, 6-206, and 6-308, Annotated Code of Maryland

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) "[License holder] *Licensee*" means an individual who is licensed by the Board to practice massage therapy.

(2) "Non bona fide treatment" means when a [license holder or registration holder] *licensee or registrant* treats or examines a client in a way that involves sexual contact, but there is no therapeutic reason for the procedure, or the procedure falls outside of reasonable massage therapy.

(3) "[Registration holder] *Registrant*" means an individual who is registered by the Board to practice massage therapy in a setting that is not a health care setting.

(4) "Sexually exploitative relationship" means when sexual contact occurs in an existing therapeutic relationship between the massage therapist and the client or between the instructor and the student, or within a period of time after formal termination of the therapeutic or instructor-student relationship where the client or student may still be vulnerable to the power imbalance that exists in the relationship between the [license holder or the registration holder] *licensee or registrant* and the client or student, even if the relationship may appear to be mutually consensual.

(5) "Therapeutic deception" means when a [license holder or registration holder] *licensee or registrant* misrepresents sexual conduct as a legitimate form of treatment or instruction to a client or a student.

.03 Standards of Practice.

A. The [license holder or registration holder] *licensee or registrant* shall be concerned primarily with the welfare of the client.

B. A [license holder or registration holder] *licensee or registrant* who suffers from a physical, mental, or emotional impairment, including chemical abuse, which impacts the [license holder's or registration holder's] *licensee's or registrant's* ability to practice massage therapy, shall proactively seek professional treatment and shall refrain from the practice of massage therapy until such time as the impairment no longer exists or reasonable accommodations can be made.

C. A [license holder or registration holder] *licensee or registrant* shall:

(1)—(8) (text unchanged)

(9) Attempt to correct others who misrepresent the [license holder's or registration holder's] *licensee's or registrant's* credentials, qualifications, education, or affiliations.

D. A [license holder or registration holder] *licensee or registrant* may not:

(1)—(2) (text unchanged)

(3) Engage in a commercial activity that conflicts with the duties of a [licensed massage therapist or registered massage practitioner] *licensee or registrant*;

(4)—(6) (text unchanged)

.04 Relationship with Client.

A. A [license holder or registration holder] *licensee or registrant* shall:

(1)—(3) (text unchanged)

(4) Maintain legible, organized written records of treatment of any client under the care of the [license holder or registration holder] *licensee or registrant* for at least 5 years after termination of treatment and as provided by applicable provisions of Health-General Article, Title 4, Subtitle 3, Annotated Code of Maryland;

(5) (text unchanged)

[(6) Make arrangements for another professional to provide for the needs of the clients during anticipated absences when not available to clients;]

[(7)] (6)—[(10)] (9) (text unchanged)

B. A [license holder or registration holder] *licensee or registrant* may not:

(1)—(2) (text unchanged)

(3) Make a guarantee or promise about the efficacy of a particular treatment, the [license holder's or registration holder's] *licensee's or registrant's* practice, or the results of a treatment unless supported by scientific principles accepted by the profession as determined by the governing board; or

(4) (text unchanged)

.05 Professional Boundaries.

A. A [license holder or registration holder] *licensee or registrant* shall:

(1)—(2) (text unchanged)

B. A [license holder or registration holder] *licensee or registrant* may not:

(1) Exploit a relationship with a client, staff member, or student for the [license holder's or registration holder's] *licensee's or registrant's* personal advantage, including, but not limited to, a personal, sexual, romantic, or financial relationship;

(2)—(3) (text unchanged)

.06 Records, Confidentiality, and Informed Consent.

A [license holder or registration holder] *licensee or registrant* shall:

A.—G. (text unchanged)

.07 Education and Training.

A. A [license holder or registration holder] *licensee or registrant* shall:

(1) Recognize the [license holder's or registration holder's] *licensee's or registrant's* limitations and qualifications and practice massage therapy within the limits of these limitations and qualifications;

(2)—(3) (text unchanged)

B. The [license holder or registration holder] *licensee or registrant* may not perform a treatment or provide a service which:

(1) The [license holder or registration holder] *licensee or registrant* is not qualified to perform; or

(2) Is beyond the scope of the [license holder's or registration holder's] *licensee's or registrant's* education, training, capabilities, experience, and scope of practice.

.08 Ethical, Legal, and Professional Responsibilities of Massage Therapist and Practitioners.

A [license holder or registration holder] *licensee or registrant* may not construe a failure to specify a particular ethical, legal, or professional duty in this chapter as a denial of the existence of other ethical, legal, or professional duties or responsibilities that are equally as important and as generally recognized in the profession.

.09 Penalties.

If a [license holder or registration holder] *licensee or registrant* violates a regulation in this chapter, the Board may take action pursuant to Health Occupations Article, §§6–308, Annotated Code of Maryland. The Board may also impose a penalty not exceeding \$5,000.

10.65.04 Advertising

Authority: Health Occupations Article, §§6-101, 6-102, 6-206, and 6-401, Annotated Code of Maryland

.01 Scope.

This chapter governs advertising by [individuals licensed as massage therapists or registered as massage practitioners] *licensees or registrants* [by] of the Board of Massage Therapy Examiners in Maryland.

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1)—(2) (text unchanged)

(3) "[License holder] *Licensee*" means an individual who is licensed by the Board to practice massage therapy.

(4) "[Registration holder] *Registrant*" means an individual who is registered by the Board to practice massage therapy in a setting that is not a health care setting.

.03 Advertising.

A. A [license holder or registration holder] *licensee or registrant* may advertise massage services subject to the provisions of this chapter.

B. The [license holder or registration holder] *licensee or registrant* shall state in the advertisement that the:

(1) [License holder] *Licensee* is a "State of Maryland licensed massage therapist"; or

(2) [Registration holder] *Registrant* is a "State of Maryland registered massage practitioner".

C. An advertisement shall state at a minimum the:

(1) [License holder's or registration holder's] *Licensee's or registrant's* practice or business name;

(2) [License holder's or registration holder's] *Licensee's or registrant's* name;

(3) [License holder's or registration holder's] *Licensee's or registrant's* status as a [license holder or registration holder] *licensee or registrant*; and

(4) (text unchanged)

D. An advertisement may not include statements that:

(1) (text unchanged)

[(2)] (2) Are likely to mislead or deceive due to making only a partial disclosure of relevant facts when the statements are placed in context;

(3) Intend to or are likely to create false or unjustified expectations of favorable results;

(4) Refer to fees without reasonable disclosure of all relevant variables, conditions, and exceptions so that the statement may be misunderstood or deceptive to laypersons;

(5) Convey the impression that the license holder or registration holder may improperly influence any public body, official, corporation, or person on behalf of the public;

(6) Make representations or implications that in reasonable probability may cause an ordinarily prudent individual to misunderstand or be deceived by the representations or implications;]

[(7)] (2) (text unchanged)

[(8)] (3) Make representations or implications that the [license holder or registration holder] *licensee or registrant* is willing to provide services that are illegal under the laws or regulations of Maryland or the United States.

E. An individual who is a [registered massage practitioner] *registrant* or a business entity that employs or contracts with [registered massage practitioners] *registrants* may not advertise that the individual or business entity provides health-related therapeutic massage services.

F. An individual may not advertise that the individual practices massage therapy in Maryland if:

(1) (text unchanged)

(2) The individual's application for a license or registration is pending before the Board[, and the individual has not taken the examination required by the Board; or

(3) The individual has taken an examination required by the Board, but the results of the examination are not yet known].

G. (text unchanged)

.04 Solicitation.

A [license holder or registration holder] *licensee or registrant* may not engage in solicitation, including, but not limited to, in-person, telephone, electronic, or direct mail solicitation, that:

A.—B. (text unchanged)

.05 Accountability.

A [license holder or registration holder] *licensee or registrant* shall be accountable under this chapter if the [license holder or registration holder] *licensee or registrant* uses an agent, partnership, professional association, health maintenance organization, or any other entity or means to implement actions prohibited by this chapter.

.06 Penalties for Violation.

A violation of this chapter may result in disciplinary action against the [license holder or the registration holder] *licensee or registrant* under Health Occupations Article, Title 6, Annotated Code of Maryland.

10.65.05 Continuing Education Requirements

Authority: Health Occupations Article, §6-206, Annotated Code of Maryland

.01 Required Continuing Education Hours.

A. By October 31 of each renewal year, [beginning in October, 2004, license and registration holders] *licensees and registrants* shall satisfactorily complete a minimum of 24 *continuing education* hours within the previous 24 months as follows:

- (1) (text unchanged)
- (2) 3 hours in communicable disease education [which includes AIDS/HIV]; [and]
- (3) [17] 16 hours in massage-related courses as approved by the Board; and
- (4) [1 hour] 2 hours in diversity, [or] cultural competency, or *implicit bias training*.

B. In addition to the requirements of §A of this regulation, at the time of renewal, a [license or a registration holder] *licensee or registrant* shall possess [a] *documentation of current* certification of qualification in CPR[.] *at, a minimum, the Basic Life Support (BLS) level.*

.02 Approval of Continuing Education Programs.

A. (text unchanged)

B. A course or program offered by a pre-approved provider is approved without further review and is exempted from the requirements of Regulation .04 this chapter, provided that the course or program pertains to the human anatomy and includes any of the following topics:

(1)—(6) (text unchanged)

(7) Any other topic determined by the Board to meet the professional and educational requirements of the [license and registration holders] *licensees and registrants*.

C. Pre-approved Providers. Unless the requirement of §B of this regulation are not met or accreditation status of the pre-approved provider, including all sub-providers, schools, courses, and programs approved or sanctioned by the pre-approved provider unless otherwise prohibited, is not retained, the following shall be considered pre-approved providers:

[(1) COMTA;]

[(2)] (1) (text unchanged)

(2) ABMP;

[(3) NCCAOM;]

[(4)] (3)—[(9)] (8) (text unchanged)

D.—E. (text unchanged)

.03 Exemptions.

A. (text unchanged)

B. [License or registration holders] *Licensees or registrants* with documented hardships, and seeking an exemption, waiver, or extension from the continuing education requirements in Regulation .01 of this chapter, shall petition the Board in writing at least 90 days before the renewal date.

C. The Board shall review the petition for an exemption, waiver, or extension and respond in writing to the [license or registration holder] *licensee or registrant*.

.04 Board Procedures.

A.—B. (text unchanged)

C. The Board shall conduct a biennial audit of continuing education[,] and shall notify audited [certificate] *licensees* and [registration holders] *registrants* by mail or *electronic means* that the audited [certificate] *licensees* and [registration holders] *registrants* shall produce satisfactory evidence of completion of the continuing education requirements.

D. [Certificate] *Licensees* and [registration holders] *registrants* shall maintain accurate records, including continuing education course certifications, and if audited, shall present this documentation upon request to the Board.

10.65.06 Record Keeping

Authority: Health Occupations Article, §6-206, Annotated Code of Maryland

.01 General Requirements.

- A. The [license or registration holder] *licensee or registrant* shall maintain accurate, legible, and organized client records for every client, regardless of the procedure or modality employed.
- B. (text unchanged)

.02 Maintenance and Release of Records.

- A. The [license or registration holder] *licensee or registrant* shall keep all client files secure and confidential in accordance with the provisions of the Health-General Article, Title 4, Subtitle 3, Annotated Code of Maryland.
- B. Client files are the property of the:
 - (1) [License or registration holder] *Licensee or registrant* when working as a sole proprietor or independent contractor; or
 - (2) (text unchanged)
- C. (text unchanged)
- D. The [license or registration holder] *licensee or registrant* may assess fees for duplicating client records for the patient or for another health care provider in accordance with Health-General Article, §4-403, Annotated Code of Maryland.

10.65.09 Sanctioning Guidelines

Authority: Health Occupations Article, §§1-606, 6-308, and 6-309, Annotated Code of Maryland

.01 Scope.

- A.—B. (text unchanged)
- [C. The Board shall complete a worksheet for each complaint considered by the Board that is not initially closed.]
- [D.] C. The Board is aware that there may be conduct by a [license holder or registration holder] *licensee or registrant* that does not fall squarely within a particular guideline contained in Regulation .06 of this chapter. In that event, the Board will [so indicate on the worksheet and] use its best judgment to determine the appropriate sanction.
- [E.] D. The Board and the Maryland Office of Administrative Hearings shall make determinations that maximize the protection of the public’s health while maintaining the rights of [license holders and registration holders] *licensees and registrants*.

.02 Definitions.

- A. (text unchanged)
- B. Terms Defined.
 - (1) (text unchanged)
 - (2) “Conditions” means requirements in a public or nonpublic order that a [license holder or registration holder] *licensee or registrant* is required to satisfy which include but are not limited to:
 - (a)—(q) (text unchanged)
 - (3) (text unchanged)

.03 Application.

- A. This chapter shall be used by the Board as a guide for sanctioning [license holders and registration holders] *licensees and registrants* in formal and informal actions and proceedings.
- B.—G. (text unchanged)
- H. If the conduct is not described in Regulation .06 of this chapter, the Board shall use its judgment to determine appropriate sanctions [and shall so state in the sanctions worksheet].
- I.—K. (text unchanged)

[.05] .04 Aggravating and Mitigating Factors.

- A. (text unchanged)
- [B. If the sanctions imposed by the Board fall outside the range of the sanctioning guidelines the Board shall state its reasons on its worksheet.]
- [C.] B. (text unchanged)

[.06] .05 Disciplinary Guidelines.

The following guidelines shall be used by the Board as a guide for sanctioning [license holder or registration holder] *a licensee or registrant* in formal and informal actions and proceedings:

A. Abuse — Physical and Emotional.

Severity	Tier/Conduct	Sanction Range		Duration
		Minimum	Maximum	
Least to Greatest	(1) (text unchanged)			
	(2) Physical abuse resulting in significant physical or emotional injury	Suspension for 3 years, without stay for at least 30 days and probation for 3 years, and conditions	Revocation	Suspension for 3 years, without stay for at least 30 days, and probation for 3 years to revocation

			<i>Denial of initial, renewal, reinstatement, or reactivation application</i>	
--	--	--	---	--

B. Criminal Convictions or Plea of Nolo Contendere.

Severity	Tier/Conduct	Sanction Range		Duration
		Minimum	Maximum	
Least to Greatest	(1) Convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude	Suspension for 1 year and probation for 1 year, and conditions	Revocation	Suspension for 1 year and probation for 1 year, to revocation
			<i>Denial of initial, renewal, reinstatement, or reactivation application</i>	
	(2) Convicted of or pleads guilty or nolo contendere to a sexual offense	Suspension for 5 years, without stay for at least 60 days, and probation for 5 years, and conditions	Revocation	Suspension for 5 years, without stay for at least 60 days, and probation for 5 years, to revocation
			<i>Denial of initial, renewal, reinstatement, or reactivation application</i>	

C. Disciplined by Another Licensing or Disciplinary Authority.

Severity	Tier/Conduct	Sanction Range		Duration
		Minimum	Maximum	
Least to Greatest	(1) Conduct resulting in no physical or psychological harm	Reprimand	Reprimand and probation for up to 3 years, and conditions	Reprimand to reprimand and probation for up to 3 years
			<i>Denial of initial, renewal, reinstatement, or reactivation application</i>	
	(2) Conduct resulting in financial injury	Reprimand	Revocation	Reprimand to Revocation
			<i>Denial of initial, renewal, reinstatement, or reactivation application</i>	
	(3) Conduct resulting in physical or psychological harm or a risk of physical or psychological harm	Suspension for 3 years, without stay for at least 10 days, and probation for 3 years, and conditions	Revocation	Suspension for 3 years, at least 10 days without stay, and probation for 3 years to revocation
			<i>Denial of initial, renewal, reinstatement, or reactivation application</i>	
	(4) Misrepresentation or fraud	Suspension for 2 years, without stay for at least 5 days, and probation for 2 years, and conditions	Revocation	Suspension for 2 years, without stay for at least 5 days, and probation for 2 years to revocation
			<i>Denial of initial, renewal, reinstatement, or reactivation application</i>	

	(5) Conduct not provided for in §C(1)-(4) of this regulation	Reprimand	Revocation	Reprimand to Revocation
			<i>Denial of initial, renewal, reinstatement, or reactivation application</i>	

D. Diversion of Controlled Substances or Prescription Drugs.

Severity	Tier/Conduct	Sanction Range		Duration
		Minimum	Maximum	
Least to Greatest	(1) Diversion without harm to self or others	Reprimand and conditions, and probation for 1 year	Suspension for up to 5 years, and probation for up to 5 years, and conditions	Reprimand and probation for 1 year to suspension for up to 5 years and probation for up to 5 years
			<i>Denial of initial, renewal, reinstatement, or reactivation application</i>	
	(2) Diversion creating risk of harm	Suspension for 3 years and probation for 3 years, and conditions	Suspension for up to 5 years and probation for up to 5 years, and conditions	Suspension for 3 years and probation for 3 years to suspension for up to 5 years and probation for up to 5 years
			<i>Denial of initial, renewal, reinstatement, or reactivation application</i>	
	(3) Diversion with harm	Suspension for 5 years, without stay for at least 90 days, and probation for 5 years, and conditions	Revocation	Suspension for 5 years, without stay for at least 90 days, and probation for 5 years, to revocation
			<i>Denial of initial, renewal, reinstatement, or reactivation application</i>	

E. Failure to Renew a License When the [License Holder or Registration Holder] *Licensee or Registrant* Has Continued to Practice.

Severity	Tier/Conduct	Sanction Range		Duration
		Minimum	Maximum	
Least to Greatest	(1) Failure to renew a license and practicing for up to 1 year	Reprimand	Revocation	Reprimand to suspension for 2 years, and probation for [to] 2 years
			<i>Denial of initial, renewal, reinstatement, or reactivation application</i>	
	(2) Failure to renew a license and practicing for 1 year or longer	Suspension for 2 years, and probation for 2 years, and conditions	Revocation	Suspension for 2 years, and probation for 2 years, to revocation
			<i>Denial of initial, renewal, reinstatement,</i>	

			<i>or reactivation application</i>
--	--	--	------------------------------------

F. Noncompliance with Board Orders.

Severity	Tier/Conduct	Sanction Range		Duration
		Minimum	Maximum	
Least to Greatest	(1) Failure to comply with a Board order	Suspension for 3 years, without stay for at least 10 days, and probation for 3 years, and conditions	Revocation	Suspension for 3 years, without stay for at least 10 days, probation for 3 years, to revocation
			<i>Denial of initial, renewal, reinstatement, or reactivation application</i>	
	(2) Failure to comply with a Board order with additional unprofessional conduct	Suspension for 3 years, without stay for at least 30 days, and probation for 3 years, and conditions	Revocation	Suspension for 3 years, without stay for at least 30 days, and probation for 3 years, to revocation
		<i>Denial of initial, renewal, reinstatement, or reactivation application</i>		
	(3) Failure to comply with a Board order with serious physical injury or death of a patient, or the risk of significant physical injury or death	Suspension for 5 years, without stay for at least 1 year, and probation for 5 years, and conditions	Revocation	Suspension for 5 years, without stay for at least 1 year, and probation for 5 years, to revocation
			<i>Denial of initial, renewal, reinstatement, or reactivation application</i>	

G. Incompetent Practice [Or] *or* Misconduct.

Severity	Tier/Conduct	Sanction Range		Duration
		Minimum	Maximum	
Least to Greatest	(1) Practice below acceptable standards with a low risk of patient harm	Reprimand and conditions	Suspension for 1 year, and probation for 1 year, and conditions	Reprimand to suspension for 1 year, and probation for 1 year
			<i>Denial of initial, renewal, reinstatement, or reactivation application</i>	
	(2) Practice below acceptable standards with patient harm or risk of patient harm	Suspension for 3 years, without stay for at least 30 days, and probation, and conditions	Revocation	Suspension for 3 years, without stay for at least 30 days, and probation, to revocation
		<i>Denial of initial, renewal, reinstatement, or reactivation application</i>		
	(3) Practice below acceptable standards with serious physical injury or death of a patient, or a risk of significant physical injury or death	Suspension for 3 years, without stay for at least 90 days, and probation for 3 years, and conditions	Revocation	Suspension for 3 years, without stay for at least 90 days, and probation for 3 years, to revocation
			<i>Denial of initial, renewal, reinstatement or reactivation, application</i>	

H. Sexual Misconduct.

Severity	Tier/Conduct	Sanction Range		Duration
		Minimum	Maximum	
Least to Greatest	(1) Unsolicited conduct of a sexual nature excluding physical contact that serves no diagnostic or treatment purpose	Reprimand and conditions	Revocation	Reprimand to suspension for 1 year, and probation for 1 year
			<i>Denial of initial, renewal, reinstatement, or reactivation application</i>	

	(2) A personal relationship that violates professional ethics	Suspension for 1 year, and probation for 1 year, and conditions	Suspension for up to 5 years, probation for up to 5 years, and conditions	Suspension for 1 year, and probation for 1 year, to suspension for up to 5 years, and probation for up to 5 years
			<i>Denial of initial, renewal, reinstatement, or reactivation application</i>	
	(3) Physical contact of a sexual nature that does not include force, intimidation, the use of drugs, or alcohol, and that serves no diagnostic or treatment purpose	Suspension for 2 years, without stay for at least 90 days, and probation for 2 years, and conditions	Revocation	Suspension for 2 years, without stay for at least 90 days, and probation for 2 years, to suspension for up to 7 years, without stay for at least 90 days, and probation for up to 7 years
			<i>Denial of initial, renewal, reinstatement, or reactivation application</i>	
	(4) Sexual conduct involving, but not limited to, force intimidation, the use of drugs, or alcohol, or multiple victims	Suspension for 5 years, without stay for at least 1 year, and probation for 5 years, and conditions	Revocation	Suspension for 5 years, without stay for at least 1 year, and probation for 5 years to revocation
			<i>Denial of initial, renewal, reinstatement, or reactivation application</i>	

I. Substance Abuse.

Severity	Tier/Conduct	Sanction Range		Duration
		Minimum	Maximum	
Least to Greatest	(1) Misuse of drugs or alcohol without harm to others	Suspension for 2 years and probation for 2 years, and conditions	Suspension for up to 5 years, and probation for up to 5 years, and conditions	Suspension for 2 years and probation for 2 years, to suspension for up to 5 years and probation for up to 5 years
			<i>Denial of initial, renewal, reinstatement, or reactivation application</i>	
	(2) Misuse of drugs or alcohol with patient	Suspension for 5 years, without stay for at least 90	Revocation	Suspension for 5 years, without stay for at least

	harm or a risk of patient harm	days, probation for 5 years, and conditions		90 days, and probation for 5 years to revocation
			<i>Denial of initial, renewal, reinstatement, or reactivation application</i>	

J. Unauthorized Practice.

Severity	Tier/Conduct	Sanction Range		Duration
		Minimum	Maximum	
Least to Greatest	(1) [License holder or registration holder] <i>Licensee or registrant</i> knowingly allows an unauthorized individual to practice outside their scope of practice without patient harm or minimal patient harm	Reprimand and conditions	Suspension for 2 years, and probation for 2 years, and[,] conditions	Reprimand to suspension for 2 years, and probation for 2 years
			<i>Denial of initial, renewal, reinstatement, or reactivation application</i>	
	(2) [License holder or registration holder] <i>Licensee or registrant</i> knowingly allows an unauthorized individual to practice outside their scope of practice with greater than minimal patient harm	Suspension for 5 years, without stay for at least 30 days, and probation for 5 years, and conditions	Revocation	Suspension for 5 years, without stay for at least 30 days, and probation for 5 years to revocation
			<i>Denial of initial, renewal, reinstatement, or reactivation application</i>	
	(3) An unauthorized individual practices outside their scope of practice without patient harm or minimal patient harm	Reprimand	Suspension for 2 years, and probation for 2 years, and[,] conditions	Reprimand to suspension for 2 years, and probation for 2 years
			<i>Denial of initial, renewal, reinstatement, or reactivation application</i>	
	(4) An unauthorized individual practices outside their scope of practice with greater than minimal patient harm	Suspension for 5 years, without stay for at least 30 days, and probation, and conditions	Revocation	Suspension for 5 years, without stay for at least 30 days, and probation, to revocation
			<i>Denial of initial, renewal, reinstatement, or reactivation application</i>	

K. Unethical Conduct.

Severity	Tier/Conduct	Sanction Range		Duration
		Minimum	Maximum	
Least to Greatest	(1) Unethical Conduct resulting in no physical or psychological harm	Reprimand and conditions	Suspension for up to 2 years, and probation for up to 2 years, and conditions	Reprimand to suspension for up to 2 years, and probation for up to 2 years
			<i>Denial of initial, renewal, reinstatement, or reactivation application</i>	

(2) Unethical conduct resulting in financial injury	Suspension for 3 years, and probation for 3 years, and conditions	Revocation	Suspension for 3 years, and probation for 3 years, to revocation
		<i>Denial of initial, renewal, reinstatement, or reactivation application</i>	
(3) Unethical conduct resulting in physical or psychological harm or a risk of physical or psychological harm	Suspension for 3 years, and probation for 3 years, and conditions	Revocation	Suspension for 3 years, and probation for 3 years, to revocation
		<i>Denial of initial, renewal, reinstatement, or reactivation application</i>	
(4) Unethically, and without legal justification, fails to cooperate with a lawful investigation conducted by the Board	Suspension for 5 years, without stay for at least 30 days, and probation, for 5 years, and conditions	Revocation	Suspension for 5 years, without stay for at least 30 days, and probation for 5 years, to revocation
		<i>Denial of initial, renewal, reinstatement, or reactivation application</i>	
(5) Unethical conduct resulting from misrepresentation or fraud	Suspension for 5 years, and probation for 5 years, and conditions	Revocation	Suspension for 5 years, and probation for 5 years, to revocation
		<i>Denial of initial, renewal, reinstatement, or reactivation application</i>	
(6) Threatens, forces, intimidates, or influences a person to change or withhold evidence before the Board or the Office of Administrative Hearings.	Suspension for 5 years, without stay for at least 90 days, and probation for 5 years, and conditions	Revocation	Suspension for 5 years, without stay for at least 90 days, and probation for 5 years, to revocation
		<i>Denial of initial, renewal, reinstatement, or reactivation application</i>	
(7) Unethical Conduct resulting from any violation not provided for in §K(1)-(6) of this regulation	Reprimand	Revocation	Reprimand to revocation
		<i>Denial of initial, renewal, reinstatement, or reactivation application</i>	

Laura Herrera Scott
Secretary of Health